

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 952 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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AMIT KANTILAL KOTHARI

Versus

KIRITKUMAR MULJIBHAI THAKKAR  
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Appearance:

MR SANDEEP N BHATT for Petitioner  
None present for Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/11/1999

ORAL JUDGEMENT

#. This is claimant's revision application against the order of the Motor Accident Claims Tribunal, Rajkot, dated 14th December 1994, below ex.3, in Claims Case No.55 of 1991 under which the application was granted only against the owner of the offending vehicle.

#. The learned counsel for the petitioner submits that this claim application is of the year 1991 and he prays that this court may give direction to the Tribunal to dispose of the application expeditiously. He further submits that whatever finding given while considering the application of the petitioner under Section 140 of the Motor Vehicles Act may not be taken to be final while deciding the main claim petition.

#. Both the prayers made by learned counsel for the petitioner deserve acceptance. It is really shocking that claim application of the year 1991 is still pending. Moreover, when application under Section 140 of the Motor Vehicle Act is dismissed against Insurance Company it is expected of the Tribunal to decide the main petition itself finally. It is very very difficult to get this amount of compensation from the owner of the vehicle. So far as the second prayer is concerned, the learned counsel for the petitioner is correct that whatever findings recorded or observations made while deciding the application under Section 140 of the Motor Vehicles Act are only tentative and provisional and these are not binding on the Tribunal while deciding the main petition. This is still open for consideration and decision by the Tribunal as to whether the amount of compensation found payable to the petitioner is to be paid by the Insurance Company or not.

#. In the result, though no interference is called for with the impugned order and this civil revision application is dismissed, Rule discharged, the Motor Accident Claims Tribunal, Rajkot, is directed to decide the claim petition of the petitioner within a period of four months from the date of receipt of writ of this order or certified copy thereof, whichever is earlier. It is further made clear that while deciding the petition finally, the Tribunal may not be influenced by the findings recorded while deciding the application under Section 140 of the Motor Vehicles Act.

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[sunil]